

ZACHARIAH JELLISON.

JUNE 15, 1860.—Ordered to be printed.

Mr. J. COCHRANE, from the Committee on Commerce, made the following

REPORT.

*Mr. Cochrane, from the Committee on Commerce, to whom was referred the petition of Zachariah Jellison to have refunded certain discriminating duties paid by him on a cargo of sugar from Pernambuco, in the Portuguese schooner Rainha dos Azores, report:*

That the facts, so far as regards the importation, appear to be correctly set forth in the petition. The discriminating duties levied and collected appear to have been so levied in accordance with treaty stipulations, as will be seen by the following letter from the Secretary of the Treasury:

TREASURY DEPARTMENT, *March 14, 1860.*

SIR: I herewith return the petition of Zachariah Jellison, praying that certain duties levied on a cargo of sugar imported by him into the port of Boston, in August, 1857, from Pernambuco, in the Portuguese schooner "Rainha dos Azores," may be refunded to him.

The treaty between Portugal and the United States, of August 26, 1840, places the *vessels* of each of the contracting parties upon a footing of reciprocity; but this reciprocity does not extend to their cargoes, unless they consist of American or Portuguese productions. Sugar, therefore, the product of the empire of Brazil, brought, as in this case, into a port of the United States in a Portuguese vessel, did not come within the reciprocity of the treaty, but became liable, under the 11th section of the tariff act of 1842, to the discriminating duty exacted by the collector of the customs at Boston.

The construction of the treaty upon which the collector at Boston exacted the discriminating duty, in this case, was pronounced by the Supreme Court of the United States, in the case of *Oldfield vs. Marriott*, at the December term, 1850, and it is also set forth in the general regulations of this department, issued on the 1st of February, 1857. The petitioner, therefore, labors under a misapprehension in suggesting that doubts were entertained by the department as to the law applicable to the importation by the "Rainha dos Azores."

He is also under a misapprehension in supposing that if he had been advised by the collector, at the time of the warehouse entry, he could have avoided the payment of the discriminating duty by exportation. The right of the United States to duties accrues on *importation*, and not on the entry. This discriminating duty having rightfully accrued could not be refunded, the 15th section of the tariff act of 1842 forbidding the refunding, on exportation, of the additional duties imposed by that act on goods imported in foreign vessels.

I see nothing in this case that should make it an exception to the general rule; and it is respectfully suggested whether the return of discriminating duties, except in cases where they have been illegally or erroneously exacted, would not tend to defeat the very purpose for which they are imposed, and which is believed to have been, to a very considerable extent, accomplished by inducing other nations to put our shipping and trade with them on the footing of reciprocity.

I am, very respectfully,

HOWELL COBB.

*Secretary of the Treasury.*

Hon. JOHN COCHRANE,

*Of the Committee on Commerce, House of Representatives.*

Your committee, agreeing with the views of the Secretary of the Treasury, have instructed me to make an adverse report thereon.